

I. REMARKS

Claims 1-3, 5-9 and 14-23 are pending in this application. Claims 2, 3, 5-9 and 14-22 have been withdrawn from examination as a result of a requirement for restriction among allegedly independent and distinct inventions. Claims 1 and 23 were examined and stand rejected.

35 U.S.C. § 103

Claims 1 and 23 remain rejected under 35 U.S.C. § 103 as allegedly unpatentable over Lackey et al. (2001) Biochem. Pharma. 61:179-189, for the reasons of record. Applicant respectfully traverses.

Attached to this Reply is the Declaration of H. Michael Shepard Under 37 C.F.R. § 1.132 wherein Dr. Shepard notes that he is the same Shepard listed as a co-author of Lackey et al. Dr. Shepard also declares that the co-authors of the Lackey et al. publication did not contribute to the invention disclosed and claimed in the subject application. As such, the Lackey et al. publication is the inventor's own work that was published less than one year before the effective filing date of this application, i.e., less than one year prior to the January 19, 2001 filing date of the provisional application. Accordingly, the reference can not be a basis for a rejection under any of 35 U.S.C. § 102 (a), § 102 (b) or § 103. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

37 C.F.R. § 1.141

In view of the above, Applicant believes the claims are in condition for allowance and therefore, respectfully requests that the Office consider claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

II. CONCLUSION

In view of the preceding amendments and remarks, Applicant believes that the application is now in condition for allowance. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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